

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

TD BANK, N.A.

Plaintiff,

V.

BRUCE M. CORRIVEAU and MEAGAN M. CORRIVEAU, STATE OF MAINE, DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY and JOHN DEERE FINANCIAL, F.S.B. f/k/a FPC Financial, F.S.B.

CIVIL ACTION NO. _____

Defendants.

CIVIL ACTION -- COMPLAINT

NOW COMES Plaintiff, TD Bank, N.A., by and through its undersigned counsel, Duane Morris LLP, for its Complaint against Defendants, and complains against Defendants, Bruce M. Corriveau and Megan M. Corriveau, respectfully shows:

THE PARTIES

1. Plaintiff, TD Bank, N.A. (“TD Bank”), is a national banking association created and existing under the laws of the United States of America. TD Bank’s main office, as set forth in its articles of association, is located in Wilmington, Delaware. It has its headquarters and main operation in Cherry Hill, New Jersey. It is therefore, a citizen of Delaware.

2. Bruce M. Corriveau and Megan M. Corriveau, (the “Corriveaus”), are citizens of the state of Maine and whose last known address is 486 Main Street, St. Agatha, Maine.

3. State of Maine, Department of Agriculture, Conservation and Forestry (“Department of Agriculture”), is a government entity established and existing in the State of

Maine and having a mailing address c/o Finance Authority of Maine, P.O. Box 949, Augusta, Maine 04332. It is therefore, a citizen of Maine.

4. John Deere Financial, F.S.B. f/k/a FPC Financial, F.S.B. (“John Deere”) is a federal savings bank created and existing under the laws of the United States of America. John Deere’s headquarters are located in Madison, Wisconsin. It is therefore, a citizen of Wisconsin.

JURISDICTION, VENUE AND VICINAGE

5. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 by virtue of complete diversity of citizenship, insofar as TD Bank was, and is at the time of the filing of the Complaint, a citizen of the State of Delaware, Defendants are and at the time of the filing of the Complaint, citizens of the state of Maine and Wisconsin, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims stated in this Complaint occurred in this district.

7. Pursuant to Rule 3(b), Local Rules of the United States District Court for the District of Maine, this matter should be assigned to the Bangor Vicinage insofar as the property which is the subject of this action is located in Aroostook County.

COUNT I – FORECLOSURE BY CIVIL ACTION

1. The Corriveau's are the owners of the real property located at 481 Lake Shore Road, Madawaska, County of Aroostook, State of Maine, 04756 (the “Property”) by virtue of a warranty deed (the “Deed”) from Lionel R. Labonte, dated May 12, 2014 and recorded in the Aroostook North County Registry of Deeds on May 30, 2014 in Book 1856, Page 88. A copy of the Deed is attached hereto as Exhibit A.

2. On May 30, 2014 the Corriveau executed and delivered to TD Bank a certain promissory note in the original principal amount of \$99,000.00 (the “Note”). A copy of the Note is attached hereto as Exhibit B.

3. To secure the Note, the Corriveau executed and delivered to TD Bank a mortgage dated May 30, 2014 and recorded in the Aroostook County Registry of Deeds in Book 1856, Page 57 (the “Mortgage”). A copy of the Mortgage is attached hereto as Exhibit C.

4. TD Bank is in possession of the original Note.

5. TD Bank is the owner of the Note.

6. TD Bank is entitled to collect the debt evidenced by the Note and is the party entitled to enforce the Mortgage.

7. The Department of Agriculture may claim an interest by virtue of a Mortgage Deed and Financing Statement, dated May 30, 2014 and recorded in the Aroostook County Registry of Deeds in Book 1856, Page 72. Said Mortgage Deed and Financing Statement has an original principal balance of \$95,038.00.

8. John Deere may claim an interest by virtue of a Writ of Execution, dated August 30, 2016 and recorded in the Aroostook County Registry of Deeds in Book 1948, Page 46. Said Writ of Execution has a principal amount of \$12,190.01.

9. The Corriveau are in default of the Note, having failed to make the monthly payment due March 31, 2016, and having failed to make all payments due thereafter. As a result, the Corriveau have breached a condition of the Mortgage.

10. In compliance with the Note and Mortgage and/or 14 M.R.S.A. § 6111, on December 2, 2016, TD Bank caused to be sent a Notice of Right to Cure to the Corriveau by

certificated mailing (the “Default Letter”). A copy of the Default Letter is attached hereto and made a part hereof as Exhibit D.

11. To date, the Corriveau's have failed to cure the default. Accordingly, there is now due and owing to Plaintiff the outstanding principal balance under the Note and Mortgage, including accrued interest, late charges and applicable fees through December 2, 2016, the sum of \$98,792.58.

12. In order to protect its security interest, TD Bank likely will be further compelled during the pendency of this action to advance payments for tax, water and sewer assessments, insurance premiums, and other charges affecting the Property, or some part thereof, and Plaintiff requests that any such sum or sums to be paid be added to the Note and be deemed secured by the Mortgage and be further deemed a valid lien on the Property.

13. By virtue of the Corriveau's' breach of the terms of the Note and Mortgage, TD Bank, is entitled to: (i) judgment in its favor and against the Corriveau's in the amount of \$98,792.58, together with interest from December 2, 2016, at the rate of \$15.15 per diem to the date of judgment, and other costs and charges collectible under the mortgage; (ii) an order setting the priority of the liens, in accordance with the allegations set forth above; (iii) a Judgment of Foreclosure and Sale in conformity with Title 14 M.R.S.A. §6322, and allowing for the sale to be conducted in accordance with 14 M.R.S.A. §6323 or, in the alternative, by the United States Marshal Service; and (iv) an Order allowing exclusive possession of the real estate to TD Bank upon the expiration of the statutory 90 day period of redemption.

WHEREFORE, TD Bank prays that this Honorable Court:

A. Enter an order that forever bars and forecloses all rights, claims, liens and any equity of redemption in the Property of the Corriveau's, and every person whose conveyance or

encumbrance is subsequent or subsequently recorded after the filing of a copy of the Complaint instituting this action in the Aroostook County Registry of Deeds.

B. Enter an order setting the priority of the parties and amounts due such parties, in accordance with the allegations set forth in the Complaint;

C. Enter judgment in favor of TD Bank and against the Corriveau's in the amount of \$98,792.58, together with interest from December 2, 2016, at the rate of \$15.15 per diem to the date of judgment, and other costs and charges collectible under the Note and Mortgage;

D. Enter Judgment of Foreclosure and Sale in conformity with Title 14 M.R.S.A. §6322, and allowing for the sale to be conducted in accordance with 14 M.R.S.A. §6323 or, in the alternative, by the United States Marshal Service;

E. Enter an Order against the Corriveau's allowing TD Bank to be paid the amount adjudged to be due TD Bank, with interest thereon to the time of such payment, together with the costs and expenses of this action and the expense of said sale;

F. Enter an Order that the Corriveau's are liable for any deficiency balance remaining due TD Bank after the sale of the Property and application of the proceeds of the sale;

G. Enter an Order allowing exclusive possession of the real estate to TD Bank upon the expiration of the statutory 90 day period of redemption.

H. Grant TD Bank such other relief as the Court may determine to be just and equitable.

Dated: May 3, 2017

Respectfully submitted,

DUANE MORRIS LLP

/s/ Brett L. Messinger

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